REMARKS

Formal Matters

Claims 1-3 and 20-21 are pending.

Claims 1 and 21 are amended. Claim 21 is amended to be dependent upon claim 1. Support for the amendment to claim 1 may be found at, for example, page 39, lines 6-9 and page 56, line 18. No new matter is added.

The Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

A review of the Decision on Appeal dated January 22, 2009, indicates that the arguments presented in the Applicant's Appeal Brief and subsequent Reply Brief were ineffective because the appealed claims: a) did not require that the claimed retroviral vector produced a fluorescently active GFP and b) did not require that the claimed vector could be used to produce a stable cell line. See Decision on Appeal, page 9, 18-23 and page 19, lines 7-17.

As shown above, the claims have been amended to require that the "retroviral vector is capable of producing a stably transfected mammalian cell line comprising cells that contain said retroviral vector and that are fluorescent due to the expression of said GFP by said cells" and, as such, the claims now require both of the elements indicated as being lacking by the Board.

In view of this amendment, the Applicants submit that the arguments presented in the Applicant's response of July 24, 2006, and subsequent Appeal Brief and Reply Brief apply with full force, and all outstanding rejections should be withdrawn. Reconsideration of the Applicants arguments is therefore requested.

Specifically, the Applicants believe that the following rejections: a) the rejection of claims 1-3 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Bryan and Aran; b) the rejection of claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Aran, Bryan and Zolutukhin; c) the rejection of claims 1-3 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Zolutukhin and Bryan; d) the rejection of claims 1-3 and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Bierhuizen in

view of Bryan; e) the rejection of claims 1-3 and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Bierhuizen in view of Bryan and Aran.; and f) the rejection of claims 1-3 and 20-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Bryan are addressed by the amendment to claim 1 and the above discussion. Withdrawal of these rejections is requested.

The Applicants submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number RIGL-011.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: March 13, 2009

By: /James S. Keddie, Reg. No. 48,920/
James S. Keddie, Ph.D.
Registration No. 48,920

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303
Telephone: (650) 327-3400
Facsimile: (650) 327-3231

F:\DOCUMENT\RIGL (Rigel)\011\Response to Appeal Decition filed with RCE.doc